



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on January 9, 2009

NOTICE OF ACTION TAKEN -- DOCKET DOT-OST-2008-0392

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **SOUTHWEST AIRLINES CO. (SOUTHWEST)** filed **12/22/08** for:

XX Exemption for two years under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between the United States and Canada.¹

XX Certificate under 49 U.S.C. 41102 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between the United States and Canada.

Applicant rep: **Robert W. Kneisley (202) 263-6284** DOT Analyst: **Thuy H. Cooper (202) 366-5423**

DISPOSITION

XX **Granted request for exemption authority** (subject to conditions)

XX **Deferred on request for certificate authority²**

The above action granting exemption authority was effective when taken: **January 9, 2009**, through **January 9, 2011**.

The above action deferring on the request for certificate authority was effective when taken: **January 9, 2009**.

Action taken by: Paul L. Gretch, Director
Office of International Aviation

XX **The authority granted is consistent with the aviation agreement between the United States and Canada.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: **XX** **Holder's certificates of public convenience and necessity**
XX **Standard exemption conditions (attached)**

¹ Southwest states that it intends to offer service to Canada via a code share with WestJet Airlines, Inc. The carrier also states that it will apply for the necessary statements of authorization once the final code-share routings have been determined.

² We will address Southwest's request for certificate authority separately.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the exemption services authorized.³

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted or deferred, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

An electronic version of this document is available on the World Wide Web at:

<http://www.regulations.gov>

³ By Order 98-7-6 and Order 2005-12-4, we found Southwest fit, willing, and able to conduct interstate air transportation of persons, property, and mail. The foreign air transportation services authorized here are not markedly different in terms of aircraft size or stage length from the carrier's current operations under its existing authority. We, therefore, find that Southwest is qualified to provide the proposed air transportation for the period covered by the exemption.

U.S. Carrier Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration, the Transportation Security Administration, and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its Principal Security Inspector (PSI) to advise the PSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served;
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.